



Office of Inspector General United States Department of State

UNCLASSIFIED

June 3, 2019

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
U.S. Senate
Washington, DC 20510

Dear Senator Johnson,

This letter is in response to your October 30, 2017, letter regarding the response by the Department of State (Department) to the consumption of allegedly tainted alcohol by Americans visiting Mexico. After receiving your letter, the Office of Inspector General (OIG) conducted a substantial amount of work related to this issue and to the broader issue of consular assistance provided by the Department to American tourists in Mexico, specifically in the state of Quintana Roo, which is the country's most-visited American destination.

This work included reviewing all complaints made to Department officials regarding unregulated alcohol in Mexico and any actions taken by Department officials in response to such complaints; interviewing Americans and their families who sought consular assistance in Mexico after consuming alcohol they believed to be tainted; meeting on several occasions with officials from the Bureau of Consular Affairs (CA) to understand assistance the Department has provided to Americans traveling to Quintana Roo; and reviewing any policies and procedures governing consular assistance and issuance of travel warnings.

OIG faced several challenges in completing this review, including the fact that victims often did not report incidents involving unregulated alcohol to the Department, which significantly limited the number of cases on which OIG could base any generalizable findings. OIG met with Raquel Rutledge, the journalist who has reported extensively on this issue, and she provided us with the names of individuals who alleged that they were served tainted alcohol in Mexico. However, the vast majority of these individuals never reported an incident to the Department. In addition, OIG's review was complicated by the fact that the guidance for consular personnel who face these types of situations is general and sometimes advisory, mainly because of the complex and variable nature of the incidents themselves. For example, some guidance directs consular personnel to act with "sensitivity and tact," while other guidance instructs personnel to "assist" without providing details on the nature of that assistance and what specific actions may be

permitted, required, or prohibited. We discuss some of these provisions in more detail subsequently.

Given the limitations described above, OIG concluded that a formal report would not be appropriate. Nonetheless, OIG believes it is important to share the information discovered during our work. We present this information by the topics you included in your October 2017 letter.

Complaints to the Department Regarding Potentially Tainted Alcohol

CA provided a list of 15 complaints that it had received since 2017 related to the consumption of unregulated alcohol by Americans in Mexico, as well as one 2017 complaint alleging the deliberate drugging of an American tourist in Playa Del Carmen. Not all of these incidents were reported to the Department when they occurred. For example, one of the incidents happened in 2012 but was not reported to CA until 2017.

When incidents were timely reported, and when requested, CA officials provided consular assistance to the affected individuals and their families. For example, in four of the cases, CA officials explained to the individuals how to file a police report, and in one case, a CA official accompanied the individual to assist him in doing so. In two of the cases, CA officials assisted in the repatriation of remains and provided a Consular Report of Death Abroad.

Actions and Policies of the Department Regarding Alleged Tainted Alcohol Poisoning

The Department has taken some steps to address concerns regarding tainted alcohol in Mexico. Based on requests from Department officials, the Mexican Health Inspection Service (COFEPRIS) inspected approximately 30 bars, restaurants, and hotels. As a result, two bars—including the one that served Abbey Conner (a 20-year-old Wisconsin resident)—were shut down for failing to comply with health and safety regulations, such as improper labeling of alcoholic beverages. The raids also uncovered a significant amount of alcohol of “undetermined origin” and led to the identification of a questionable alcohol supplier. Approximately 10,000 gallons of alcohol were seized from that supplier. However, none tested positive for any illicit or dangerous substances. In addition, the Mexican government opened an office staffed with four bilingual attorneys who can assist tourists with filing police reports. Separately, the Hotel Association, the Mesa de Seguridad y Justicia (Justice and Security Board), and other Mexican government institutions are working to create a passport-sized booklet with information for tourists that includes advice for victims of crime.

In July 2017, the Department added some information to its travel information website regarding the dangers of adulterated alcohol in Mexico. In the Safety and Security section, the travel website for Mexico states, "There have been allegations that consumption of unregulated alcohol has resulted in illness or blacking out. If you choose to drink alcohol, it is important to do so in moderation and to stop and seek medical attention if you begin to feel ill." Information about contacting COFEPRIS and CA's Office of American Citizens Services and Crisis Management is also provided. The website states, "Rape and sexual assault are serious problems in some resort areas" and advises, "if you choose to drink alcohol, it is important to do so in moderation and to stop and seek medical attention if you begin to feel ill." The Department has undertaken several efforts to increase awareness of the information in its travel website, such as an annual publicity effort during the spring break season, but many of the individuals with whom OIG spoke were unaware of the travel advisories.

As noted above, the Department provided consular assistance to individuals in Mexico who reported the incident immediately. This assistance included describing the process to file a police report, providing a list of attorneys, and explaining how to make a report to the local tourism board and Mexican consumer protection authorities. In its Foreign Affairs Manual (FAM), the Department outlines general duties of individual consular officers with respect to victims of crime and individuals experiencing medical emergencies. For example, the FAM instructs consular officers to "assist traumatized U.S. citizen/national crime victims in a compassionate and professional manner." Among other duties, the FAM also instructs consular personnel to assist a victim with making a police report, if the victim wishes to do so. For any crime victim who has suffered injuries, consular personnel should assist the victim in obtaining appropriate medical care and coordinate with the medical facility and police until the situation is stabilized. Finally, in the event of a death of a U.S. national abroad, consular personnel are generally responsible for making next of kin notifications and for helping to facilitate the return of the decedent to the United States, if the family so chooses. These and many other relevant FAM provisions are found in 7 FAM 1900, "Crime Victim Assistance"; 7 FAM 300, "Emergency Financial and Medical Assistance Programs for U.S. Citizens Abroad"; and 7 FAM 200, "Deaths and Estates of U.S. Nationals Abroad."

Assistance to Victims of Physical Abuse or Sexual Assault Who May Have Consumed Tainted Alcohol

The list of complaints provided by CA included only one individual who alleged an assault after consuming allegedly tainted alcohol. This incident was reported to CA by the mother of the

alleged victim three months after it occurred. At that point, CA officials asked the mother to have the victim contact them directly due to privacy concerns, but the victim never did so.

OIG also spoke with an individual who alleged that he was sexually assaulted after being deliberately drugged while vacationing in Playa Del Carmen. This individual contacted the U.S. Consulate in Merida at approximately 12 a.m. on the day of the assault and asked for assistance in filing a police report. The U.S. Consulate General in Merida includes within its service area the state of Quintana Roo, but there is no U.S. Consulate or CA official in the immediate area of Quintana Roo. Instead, Consulate Merida oversees consular agencies in Cancun, Playa del Carmen, and Cozumel, all of which take three to five hours to travel by automobile from Merida. These offices are staffed by consular agents, who are U.S. citizens who live locally and perform some, but not all, functions of a consular official. Although their primary responsibility is to respond to emergencies, they work on a part-time basis. Consulate Merida oversees two consular agents in Cancun, one consular agent in Playa del Carmen, and one consular agent in Cozumel. Both the consular agencies in Cancun and Playa del Carmen are only open from approximately 9 a.m. until approximately 1:30 p.m. local time daily. The Cozumel consular agency, meanwhile, is “virtual,” and the Cozumel Agent works out of a café or home, not a physical office.

The consulate official with whom the individual spoke advised that the single consular agent assigned to Playa del Carmen was on leave and that the consular agent in Cozumel would assist him. However, travel to and from Cozumel is available only by a ferry that stops running at 11 p.m. As a result, this individual had to wait until the following day to attempt to file a police report. The Cozumel agent accompanied the individual to the police station the following day and provided limited translation services.¹

Adequacy of the Assistance Provided by CA Officials

As part of our review, OIG spoke with several individuals who expressed concerns regarding the level of consular assistance they were provided. As noted above, Department guidance on how to assist individuals in these types of situations is not precise, mainly because of the complex and variable nature of the incidents. Whereas the Department’s guidance is much more specific as to the steps a consular officer must take when an American is arrested abroad, the variability of health-related situations, particularly where someone is alleging a crime, does not lend itself

¹ CA officials told OIG that Department policy prohibits providing translation services as part of consular assistance, although OIG found no explicit policy that addresses the matter.

to the same prescriptiveness. A former consular official told OIG that, given the range of possibilities, it would be very difficult to enumerate all of the potentially appropriate actions to take if a citizen becomes ill or is hospitalized overseas. The official presented various first-hand examples to illustrate the challenges. Because of the general and sometimes subjective nature of the Department's guidance, OIG's analysis of the adequacy of assistance would, to a large extent, also be subjective. Additionally, given the passage of time and varying recollections of factual circumstances, OIG cannot draw definitive conclusions about any individual consular officer's compliance with Department policies in these cases. We have instead summarized the information we received from some of the affected families. By including these summaries, we are not expressing an opinion on whether the concerns articulated fall within the Department's areas of responsibility.

For example, the family of Abbey Conner told OIG that the consular assistance provided by CA was limited to only one or two brief phone calls during the several days that she and her brother were in a hospital in Mexico. This recollection is supported by documentation the Department provided to OIG. Ms. Conner's family also told OIG that they did not find these phone calls particularly helpful. Ms. Conner's stepfather stated that, in one of these phone calls, consular personnel suggested he file a police report but advised him that consular personnel could not assist him in doing so, or accompany him to the police station, or assist him with translation services. Additionally, Ms. Conner's stepfather stated that the individual with whom he spoke did not provide him with any information concerning how to file a police report, where the police station was located, or how to navigate the Mexican legal system. After the phone call, the official faxed the hospital a list of local interpreters.

When the family did attempt to file a police report with the Ministerio Publico (District Attorney) in Mexico, the Ministerio Publico told them that Ms. Conner's death had been "accidental" and refused to allow them to file a police report. According to the Department, after learning of this from the interpreter hired by the Conner family, the Playa del Carmen consular agent contacted the Ministerio Publico for an explanation and subsequently provided the family with a list of attorneys to help them file a civil suit.

Similarly, OIG spoke with two mothers whose sons died several years ago in Mexico after drinking purportedly unregulated alcohol. These mothers, both of whom were in the United States when their sons died, told OIG that they found the consular personnel with whom they interacted to be very "bureaucratic" and "insensitive" to their situations. According to these mothers, the consular personnel offered little if any assistance with arranging for the bodies of

their sons to be brought back to the United States. The mothers said that assistance offered consisted of providing contact information for various funeral homes in Mexico. However, both mothers told us that they would have appreciated greater assistance and information. For example, Mexican hospitals typically require advance payment or a substantial deposit. One of the mothers told OIG that she received a request for a large sum of money from the Mexican hospital and that she could have used CA's assistance in determining the legitimacy of the request. She claimed, when she requested advice, consulate officials advised her to hire an attorney.

In contrast, another mother whose son died after drinking potentially unregulated alcohol in Mexico told OIG that the consular personnel with whom she worked were "as helpful as could be." Although she could not recall if they had helped her family to arrange for her son's body to be brought back to the United States, she said that CA officials helped arrange a meeting between her family and officials from the resort where her son had died. This mother told OIG that she appreciated that the consular officials had been clear with her at the outset about what services they could and could not provide.

Finally, as described above, the individual who alleged that he was drugged and sexually assaulted in Playa del Carmen raised concerns to OIG that the light staffing of consular officials in Quintana Roo meant that he did not have access to consular assistance immediately after the assault.

The Department's Process for Issuing or Modifying Travel Warnings

The Department's process for issuing safety and security information is described in 7 FAM 040 Appendix A. Travel advisories are issued for each country based on country-specific risk indicators and are meant to be written in concise, easy-to-understand, plain language that contains actionable advice for U.S. citizens. The advisories are modified in response to events, such as natural disasters, disease outbreaks, and political events.

The Overseas Citizen Services (OCS) division of CA is responsible for ensuring the timeliness and accuracy of each advisory. Within OCS, Office of American Citizens Services and Crisis Management (CA/OCS/ACS) country officers are responsible for drafting advisories and clearing them with posts, regional bureaus, the Bureau of Diplomatic Security, and others as necessary.

Travel advisory levels are determined by assessing the country's safety and security situation as it affects U.S. citizens. The assessment includes reliable threat information gathered from multiple

sources, including overseas posts, various Department bureaus, other U.S. Government agencies and departments, foreign governments, and credible open sources. Additionally, decisions regarding U.S. Government personnel are taken into account, such as:

- Eligibility for danger and/or hardship pay.
- The operating status of the mission.
- Limits and security restrictions on personnel, Eligible Family Members (EFMs), and Members of Household (MOH).
- Other decisions made to protect personnel based on the security environment.
- Deferral of non-essential official travel based on safety and security concerns.

Once CA/OCS/ACS has drafted or modified an advisory, it must be cleared through various other bureaus in the Department, based on the level of the advisory. The lowest level advisories (levels 1 and 2) are cleared through CA, the Bureau of Diplomatic Security, the relevant regional bureau, the Bureau of Public Affairs, and other bureaus/offices as appropriate for the type of warning. Higher level advisories (levels 3 and 4) must additionally be cleared through the Under Secretary for Management, the Deputy Secretary, the Under Secretary for Political Affairs, the Office of Policy and Planning, and the Executive Secretariat's Crisis Management Support staff.

The various states in Mexico have different advisory levels. For example, Quintana Roo currently has a Level 2 advisory (Exercise Increased Caution) and Chihuahua has a Level 3 advisory (Reconsider Travel).

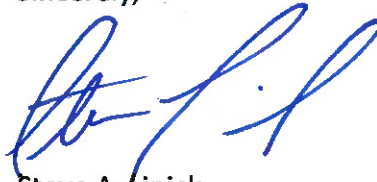
The Department's Process in Enumerating Non-Natural Deaths Abroad

Federal law requires the Department to collect information on each U.S. citizen who dies abroad from a non-natural cause, establish and maintain a database containing the information collected, and publish such information on its website (22 U.S.C. § 2729). Generally, the Department collects required information on the form DS-2060, Report of the Death of an American Abroad. Department policy defines non-natural cause as "homicide, suicide and accidental death."

Although the deaths of some of the individuals whose cases OIG examined were reported under this requirement, Abbey Conner was not included in these reports. Department officials told OIG that although her death fell within the definition of a non-natural cause, the law and the Department's policies on such reporting (7 FAM 270) only apply to citizens who die while in another country. Ms. Conner, however, was medically evacuated to Florida and died in the United States.

I hope that this information is helpful. Please feel free to contact me at (571) 349-9262, or your staff may contact Assistant Inspector General Jeffrey McDermott at (571) 349-9267.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Steve A. Linick', with a stylized flourish at the end.

Steve A. Linick
Inspector General

cc: The Honorable Gary Peters, Ranking Member
The Honorable John Sullivan, Deputy Secretary of State
The Honorable Carl Risch, Assistant Secretary, Bureau of Consular Affairs